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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,279

03/25/2004

Jerome Carmel Caruso

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757 7590 05/22/2008
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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

05/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/809,279	Applicant(s) CARUSO ET AL.	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17, 19-21 is/are allowed.
- 6) ☒ Claim(s) 18 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/20/08, 4/18/08, 5/7/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information referred to in the information disclosure statements filed on 2/20/08, 4/18/08 and 5/7/08 have been considered as to the merits.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18 and 22 are rejected under 35 U.S.C. 103(a) as being anticipated by Trotman et al. (4,143,916) in view of Ritch et al. (5,934,758). With respect to claims 18 and 22, Trotman discloses a plurality of boss structures (31) arranged in a pattern and defining a support surface; a plurality of web structures (36)(37) joining adjacent boss structures (31) within said pattern; and wherein at least some adjacent web structures (36)(37) defining said plurality of web structures are spaced apart and shaped such that said spaced apart adjacent web structures define openings (35) between said spaced apart adjacent web structures and between said adjacent boss structure joined thereto when viewed in a direction substantially perpendicular to said support surface. Trotman discloses all claimed elements with the exception of openings that are substantially X-shaped and substantially V-shaped.

Ritch discloses a seat surface made from a plurality of web structures (91)(92) that form thickened portions at thickened intersecting portions which constitute a plurality of boss structures. The web structures form X-shaped openings (96) there between that consist of two v-shaped portions.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the shape of the opening (35) disclosed by Trotman to be X and V shaped as taught by Ritch. The shape of the openings modifies the resiliency of the seating surface helping achieve improved comfort for the seat occupant. Furthermore, all of the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

4. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being anticipated by Trotman et al. (4,143,916) in view of Ritch et al. (5,934,758) and in further view of Matsuo (5,399,406). As disclosed above, Trotman, as modified, reveals all claimed elements with the exception of a plurality of web structures that are non-planar and extend away from said boss structures.

Matsuo et al. disclose a panel of material including boss structures (3) and a plurality of non-planar web structures (7) which radiate outwards away from boss structures (3).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to shape the web structures (36)(37) to be non-planar as taught by Matsuo. This hollow rib shaped construction "strengthens the base section 2" (column 4, lines 67-68) thereby assuring the long term performance of the panel.

Allowable Subject Matter

5. Claims 1-17 and 19-21 are allowed.

Response to Amendment/Arguments

6. The amendment filed on April 18, 2008 has been considered in its entirety.

The Examiner has reconsidered the 112 2nd paragraph rejection in light of Applicant's explanation and dropped the rejection.

Applicant argues that Trotman does not disclose X-shaped and V-shaped openings between said spaced apart adjacent web structures and between said adjacent boss structures joined thereto. The Examiner has modified her rejection above. Ritch teaches X-shaped and V-shaped openings between a series of web members which form a seating surface. As set forth above, the Examiner contends that modifying the shape of the opening (35) disclosed by Trotman with the shaped taught by Ritch would have been obvious in order to vary the resiliency of the seating surface.

Applicant further argues that Matsuo discloses web structures that protrude in the same direction as the protrusions (3). Claims 23-24 require web structures that "extend away from said boss structures." The Examiner contends that this language does not

require the shape of the web structures and boss structures to have opposite concavities. Web structures which radiate outwards away from the boss structures “extend away from said boss structures.” Therefore, the Examiner maintains that Matsuo teaches web structures that extend away from said boss structures. Furthermore, the web structures each have two side walls which extend downward away from the boss structure (3).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Primary Examiner
Art Unit 3636

SBM
May 15, 2008

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